

# **Arizona Senate Commerce & Economic Development Committee**

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# COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE

Forty-seventh Legislature  
Second Regular Session

## LEGISLATION ENACTED

deferred presentment; military service members (S.B. 1006) – Chapter 215

Establishes requirements for deferred present loans (payday loans) to members of the United States military or their spouses.

safe deposit boxes; unclaimed property (S.B. 1148) – Chapter 33

Increases the amount of time before property unclaimed by the owner of a safe deposit box is presumed abandoned, from more than one year to more than three years, after expiration of the lease on the box.

bail bond agent prohibitions (S.B. 1188) – Chapter 255

Retroactive to May 1, 2006, allows a person convicted of a felony to be employed as a bail bond agent if the felony conviction has been set aside or where civil rights have been restored except for a conviction of theft or any crime involving carrying or the possession of a deadly weapon or dangerous instrument.

~~industrial development bonds; review exception.~~ (NOW: project review; coordination; cooperation) (S.B. 1211) – Chapter 218

Allows specified reviewing entities responsible for the review of bond issuances for a project involving a nonprofit nursing home, rest home, skilled nursing facility or life care facility to agree to share information, coordinate review schedules or jointly conduct reviews. Repeals the project review provisions on December 31, 2009.

structural pest control; licensure exemption (S.B. 1221) – Chapter 263

Exempts persons conducting lawn, garden, shrub or tree maintenance and who apply herbicides for the purpose of weed control from Structural Pest Control Commission licensure, subject to specified requirements. Exempted persons must provide a treatment record to each customer regarding the application of the herbicide and must retain a copy of the record. The measure specifies penalties for persons who do not comply with the treatment record requirements or apply an herbicide for the purpose of weed control without a license and are not exempt from licensure.

## **COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)**

### professional employer organizations; registration (S.B. 1222) – Chapter 86

Requires the management of a professional employer organization (PEO) to include in its registration whether any person in management has been convicted, in the last ten years, of a felony that has a reasonable relationship to the PEO industry; requires the Secretary of State to deny the registration if any person has been convicted of a felony. This measure also increases, from 120 to 180 days, the amount of time a PEO has to renew its registration.

### uniform commercial code; amendments (S.B. 1250) – Chapter 53

Makes numerous changes to Chapters 1 and 7 of the Uniform Commercial Code (UCC) including providing severability for the UCC provisions, modifying numerous definitions, recognizing electronic documents of title and providing requirements for their use.

### wine shipment; limited production winery (S.B. 1276) – Chapter 310

Decreases the maximum amount a winery can produce annually to qualify for licensure as a domestic farm winery, from 75,000 gallons to 40,000 gallons. The requirement that 75 percent of a domestic farm winery's grapes be grown in Arizona is removed. A domestic farm winery that produces less than 20,000 gallons annually may make sales and deliveries of its wine directly to licensed retailers and to consumers and is required to post a bond with the Department of Revenue if the winery makes such deliveries. The measure also allows domestic farm wineries to hold a beer and wine bar, beer and wine store, or a restaurant license and makes a domestic farm winery liable for any violation committed in connection with any sale or delivery of its wine. All wineries in the United States that meet the statutory requirements may qualify as a domestic farm winery. The measure also makes changes to the liquor statutes regarding direct shipment of wine that is purchased while physically present at the winery, luxury tax collection, producer licenses and licensed clubs.

### ~~motor vehicle repair facilities~~ (NOW: domestic micro-brewery; licensure) (S.B. 1322) – Chapter 302

Defines a domestic microbrewery and modifies the domestic microbrewery liquor license by decreasing, from 10,000 to 5,000 gallons of beer annually, the minimum amount a microbrewery needs to produce in order to qualify as a domestic microbrewery and by increasing, from 310,000 to 620,000 gallons of beer annually, the maximum amount a microbrewery can produce in order to continue to qualify as a domestic microbrewery. The measure requires domestic microbreweries to use a wholesaler for delivery, except that a microbrewery may sell and deliver up to 93,000 gallons of beer that it has produced directly to licensed retailers in any calendar year. The microbrewery may also make sales and deliveries in any amount of its own beer directly to retail licensees that are under common ownership with the microbrewery. The measure allows domestic microbreweries to sell and deliver beer to persons licensed to sell beer in another state if it is lawful in that state.

## **COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)**

### personal information; security breach; notification (S.B. 1338) – Chapter 232

Effective January 1, 2007, requires a business or governmental entity to notify a state resident if unencrypted or unredacted computerized data that includes certain personal information of the resident has been compromised. The security breach notification must be made in the most expedient manner possible without unreasonable delay, subject to the needs of law enforcement, and must be made by written, electronic or telephonic means, or provided by a substitute notice if the cost of the notice exceeds \$50,000 or the number of residents to be notified exceeds 100,000 persons. The measure provides exemptions to the notification requirements for specified business entities and governmental agencies. States only the Attorney General may enforce the security breach notification requirements and that the measure preempts all municipal and county laws and ordinances on the issue. The security breach notification requirements are repealed one year after the effective date of the federal Personal Data Privacy and Security Act.

### restocking fees; disclosures (S.B. 1364) – Chapter 281

Effective November 1, 2006, requires businesses that charge a restocking fee to disclose that a restocking fee may apply and the businesses' restocking fee policy. Establishes minimum requirements for disclosure. A violation of the restocking fee requirements is a violation of the Consumer Fraud Act.

### motion picture production incentives (S.B. 1367) – Chapter 222

Beginning January 1, 2006, disqualifies a motion picture production company for a motion picture production tax incentive if the company fails to begin production within four months after receiving Arizona Department of Commerce (ADOC) preapproval for the tax incentive. The preapproved incentive amount for the disqualified motion picture production company does not apply toward the total annual income tax credit cap for that year. Additionally, any difference in the amount of eligible production costs actually incurred versus the amount preapproved for income tax credits is exempted from that year's income tax credit cap. The measure allows ADOC, after October 31, to accept initial applications for the following year if ADOC has preapproved the maximum calendar year credit amount for the current year.

### ~~workers' compensation; safety plans~~ (NOW: purchaser dwelling actions; notice) (S.B. 1374) – Chapter 275

Defines "reasonable detail" for alleged defect notices provided by a purchaser to a contractor prior to filing a dwelling action and requires amended alleged defect notices to be provided in reasonable detail.

### structural pest control; regulation; exemptions (S.B. 1388) – Chapter 88

Exempts a utility and the utility's employees from Structural Pest Control Commission licensure if the pest control services are immediately needed for an employee's health and safety

## **COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)**

in order for the employee to continue performing work tasks and a qualifying party ensures that employees who conduct pest control services are properly trained, supervised and equipped.

### sales representative contracts (S.B. 1402) – Chapter 185

Applies sales representative contract requirements to in-state businesses and requires the contracts be in writing. The measure establishes a sales representative's entitlement to the commission agreed upon through a revocable offer, requires all commissions that become due after the effective date of the termination of a contract to be paid to the sales representative within 14 days of when they become due and makes a principal who fails to remit earned commissions liable for three times the sum of unpaid commissions owed. Excludes a licensed real estate salesperson, financial institutions and insurance providers from the sales representative contract requirements.

### office of manufactured housing; deputy (S.B. 1436) – Chapter 169

Eliminates the Assistant Director position of the Office of Administration of the Department of Building and Fire Safety and reassigns the position's powers and duties to the Assistant Director of the Office of Manufactured Housing (OMH). Provides for the retention of the current employee whose job description is eliminated by this act at the person's current salary, except that the person can be terminated for cause. The Assistant Director position of OMH is renamed the Deputy Director of OMH.

### corporation commission; telecommunications arbitration (S.B. 1486) – Chapter 306

Allows the Arizona Corporation Commission (ACC) to adopt or administer arbitration procedures to resolve complaints or disputes brought by a party against a telecommunications company; however, the ACC cannot subject a wireless provider to arbitration unless written consent is given. The ACC may arbitrate disputes or complaints against a wireline service provider that involves telecommunications services contained in a bundle of services, to the extent the ACC has jurisdiction.

### industrial commission; continuation (H.B. 2041) – Chapter 15

Retroactive to July 1, 2006, continues the Industrial Commission, the Boiler Advisory Board, the Employment Advisory Council, the Occupational Safety and Health Advisory Committee and the Occupational Safety and Health Review Board until July 1, 2016.

### board of technical registration; continuation (H.B. 2042) – Chapter 43

Retroactive to July 1, 2006, continues the Board of Technical Registration until July 1, 2016.

### Arizona power authority; continuation (H.B. 2043) – Chapter 59

Retroactive to July 1, 2006, continues the Arizona Power Authority until July 1, 2016.

## **COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)**

### military airport disclosure; residential property (H.B. 2060) – Chapter 90

Beginning January 1, 2007, requires any seller of residential real estate to provide a written disclosure to the purchaser indicating if the property is located in territory in the vicinity of a military airport or ancillary military facility, prior to the transfer of the title.

### commercial landlords; telecommunications service (H.B. 2079) – Chapter 17

Prohibits the state and any political subdivisions from requiring a commercial building owner to provide telecommunication services. Requires owners of commercial buildings, upon the request of a prospective tenant, to provide the prospective tenant with written notice of the names of available telecommunication service providers.

### solicitations; loan information; restrictions (H.B. 2081) – Chapter 122

Specifies requirements for the use of a lender's trade name or trademark and the use of a consumer's loan information in solicitations by third parties for financial services or products.

### weights and measures; reference standards (H.B. 2096) – Chapter 8

Changes the name of the Department of Weights and Measures' "primary standards" to "reference standards."

### radiation regulatory agency; sunset continuation (H.B. 2097) – Chapter 60

Retroactive to July 1, 2006, continues the Arizona Radiation Regulatory Agency and the Radiation Regulatory Hearing Board until July 1, 2016.

### rental agreements; emergency; tenant safety (H.B. 2124) – Chapter 237

Prohibits rental agreements subject to the Arizona Residential Landlord and Tenant Act and the Mobile Home Parks Residential Landlord and Tenant Act from limiting a tenant's or any other person's right to summon assistance in response to any emergency and from penalizing a tenant for summoning assistance in an emergency.

### ~~underground facility marking; technical correction~~ (NOW: underground facilities; landlords) (H.B. 2222) – Chapter 258

Effective January 1, 2007, specifies numerous requirements for locating and marking underground facilities in apartment communities and mobile home parks by landlords and excavators and specifies requirements for excavations in the communities and parks. Apartment community and mobile home park landlords are required to prepare and maintain installation records of underground facilities installed after December 31, 2006, and landlords are liable for damages caused by their failure to deliver reasonably accurate and maintained installation records of the underground facilities. Landlords must file contact information with a one-call

## **COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)**

notification center, and requirements are specified for the contact information and for situations when no information is filed.

The measure makes various other changes to the underground facilities statutes, including specifying liability for violators of the underground facilities statutes, modifying installation record and preconstruction conference requirements and modifying procedures for one-call notification centers.

### corporations and LLC omnibus (H.B. 2273) – Chapter 320

Effective January 1, 2007, makes numerous changes to corporation and limited liability corporation (LLC) statutes regarding: service of process, notice or demand on a corporation; corporation and LLC names; and application for withdrawal for foreign corporations. Makes numerous changes regarding the filing of various documents. The measure also: removes the requirement that an LLC file both a notice of winding up and articles of termination when terminating an LLC and requires an LLC to only file a notice of termination; increases the felony classification, from a class 5 to a class 4 felony, for a nonprofit corporation that knowingly fails or refuses to answer any interrogatory or who signs a document filed with the Arizona Corporation Commission known by the person to be false; and, makes technical changes to blend multiple statutes governing filing, service and copying fees for nonprofit corporations.

### recreational vehicle parks; long-term rentals (H.B. 2277) – Chapter 93

Requires a recreational vehicle park landlord to provide the Recreational Vehicle Long-term Rental Space Act (Act) to prospective tenants and to make the Act available to existing tenants.

### corporations; shares without certificates (H.B. 2327) – Chapter 94

Eliminates the requirement that a corporation issue a paper certificate to every holder of uncertified shares.

### department of financial institutions; records (H.B. 2328) – Chapter 68

Allows the Department of Financial Institutions (DFI) to disclose records and information relating to a financial institution to a Federal Home Loan Bank after DFI receives authorization from the financial institution subject to the records request.

### ~~contractors; indemnity agreements~~ (NOW: beneficiary deeds; predeceased grantee beneficiaries) (H.B. 2443) – Chapter 13

Requires the owner of real property to specify in a beneficiary deed whether the conveyance to the beneficiary becomes null and void or becomes a part of the estate of the grantee beneficiary in the event that the beneficiary becomes deceased prior to the owner of the real property.

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

~~real estate offices; technical correction~~ (NOW: Arizona twenty-first century fund) (H.B. 2477) – Chapter 334

Establishes the Arizona Twenty-first Century Competitive Initiative Fund (21<sup>st</sup> Century Fund) administered by the Commerce and Economic Development Commission (CEDC) and appropriates \$35 million from the state General Fund in FY 2005-2006 to the 21<sup>st</sup> Century Fund. Requires the CEDC to enter into a memorandum of understanding (MOU) with a nonprofit corporation to: 1) build and strengthen medical, scientific and engineering research programs and infrastructure with an emphasis on bioscience and 2) actively engage scientific research, academic and medical institutions. The nonprofit corporation must provide funding equal to or greater than the state funding. Specifies requirements for the MOU and requires Joint Legislative Budget Committee review prior to spending any state monies. Subjects financial assistance provided by the CEDC to public records laws.

~~notary public; signatures of relatives~~ (NOW: personal identifying information records; disposal) (H.B. 2484) – Chapter 208

Effective October 1, 2006, establishes discard and disposal requirements for paper documents and records of businesses and governmental entities that contain specified personal information and prescribes a civil penalty for each violation of the discard and disposal requirements. Provides exemptions to the requirements.

weights and measures; civil penalties (H.B. 2562) – Chapter 303

Allows the Director of the Department of Weights and Measures to double the maximum civil penalty imposed on a refiner, refinery, registered supplier or transmix processing facility for a violation of motor fuel quality standards or product transfer document requirements.

~~contractors; licensure; appliance exemption~~ (NOW contractors; appliance exemption; licensure) (H.B. 2585) – Chapter 274

Increases the handyman exemption threshold amount from \$750 to \$1,000 and excludes the value of certain electrical fixtures and appliances from the threshold amount.

illegal liquor sales; liability (H.B. 2621) – Chapter 383

Prohibits an Arizona Department of Liquor Licenses and Control (ADLLC) licensee from being charged with knowing that a person has become intoxicated at other locations unless the person was obviously intoxicated and prohibits the trier of fact from considering any information obtained as a result of a restaurant audit in a dram shop liability case, unless the court finds it relevant.

Allows a restaurant licensee whose audit or consent agreement results in a determination that at least 30 percent but less than 40 percent of gross revenues are derived from the sale of food to obtain permission from ADLLC to continue to operate with a modified restaurant license under specified requirements. The measure allows ADLLC to determine the amount of the fee



## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

for the license and caps the number of modified restaurant licenses at 15 in each of FYs 2006-2007 and 2007-2008. After FY 2007-2008, ADLLC cannot issue any additional modified restaurant licenses. Appropriates \$450,000 in FY 2006-2007 from the state General Fund to ADLLC for the purpose of hiring three additional investigators and two additional auditors.

### Rio Nuevo; shared revenue (H.B. 2702) – Chapter 376

Extends the diversion of 50 percent of state transaction privilege tax (TPT) revenues to the Rio Nuevo District until July 1, 2025. TPT revenues may not be used for public buildings, except for fire, police or other public safety facilities, tourism offices or for the administration of the district's multipurpose facility. The district's authority to use eminent domain to acquire property is eliminated and the district may not alter its boundaries.

### underground facilities; marking procedures. (H.B. 2708) – Chapter 235

Prohibits a city, town or county from requiring the installation of additional clean-outs above city, town or county building code requirements for the purpose of locating an underground facility. The measure changes the underground facilities statutes regarding homeowners' associations (HOA), including exempting an HOA that owns a sewer facility from underground facility operator requirements and exempting an HOA from specified liability to the owner or operator of an underground facility when excavating in private property utility easements across HOA property. Additionally, underground facilities within single family residential property beneath a pool are exempt from location device requirements.

### security guards; private investigators; reciprocity (H.B. 2754) – Chapter 142

Allows the Department of Public Safety to enter into reciprocal agreements with other states that have substantially similar laws to allow security guards and private investigators from those states to work in Arizona on a temporary basis. The bill adds being arrested for any offense that would disqualify a security guard licensee from obtaining a license to constitute grounds for disciplinary action and requires the license of a person arrested for such offenses to be suspended. Makes other changes to the private investigator and security guard statutes.

### ~~disclosure; beneficiary~~ (NOW: disclosure; hazards; property) (H.B. 2779) – Chapter 384

Allows a third party to provide a hazards disclosure report to a seller of real property and specifies requirements for the third-party provider. The measure specifies the hazards that must be disclosed and requires the information to be from officially adopted governmental maps and other information available. Requires the third-party provider to carry \$10 million in insurance coverage and specifies indemnity requirements. Additionally, it specifies no person is liable for information that is disclosed and is subsequently rendered inaccurate as a result of any governmental action, map revision, changed information or other act or occurrence after the delivery of the disclosure unless the person had knowledge of the error, inaccuracy or omission. Specifies this legislation cannot be construed to create a cause of action for the use of maps or other information used to provide the hazards disclosure.

## COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)

telephone records; unauthorized sale prohibited (H.B. 2785) – Chapter 260

Prohibits a person from knowingly procuring, selling or receiving a telephone record of any Arizona resident without the resident's authorization and requires telephone companies to establish reasonable procedures to protect against unauthorized or fraudulent disclosure of telephone records. Any violation of the telephone record requirements is a violation of the Consumer Fraud Act and is a class 1 misdemeanor. For a civil action, a person is entitled to receive at least \$1,000 in damages, appropriate relief, and reasonable attorney's fees and costs.

### VETOES

workers' compensation; vehicle lessors; scope (H.B. 2478) – VETOED

Exempts certain taxi or livery vehicle companies from being liable for workers' compensation coverage for drivers who are sole proprietors or independent contractors.

The Governor states in her veto message that, although the measure had been narrowed in comparison to a previously vetoed bill, she believes it is unwise to eliminate workers' compensation coverage for taxi drivers and notes constitutionality concerns.

~~illegal aliens; employment; verification~~ (NOW: immigration law; employment; enforcement) (H.B. 2577) – VETOED

Makes numerous changes relating to immigration policy, including: the employment of unauthorized workers; trespassing by illegal aliens; prohibition against the award of punitive damages for persons in violation of certain federal immigration laws; legal residency requirements for the family literacy, adult education, child care assistance and financial assistance programs for public universities or community colleges; cooperation and assistance in enforcement of federal immigration laws by cities, towns and counties; use of verifiable identification documents; and expansion of the Gang Intelligence Team Enforcement Mission (GITEM). The measure also establishes the Joint Legislative Committee on Immigration to review the Attorney General's report regarding the employer sanctions provisions and the implementation and enforcement of immigration laws.

Allows the Governor to mobilize the National Guard to the border due to a declaration of a state of emergency and requires the Governor to report to the Legislature regarding the plan to stabilize the emergency. Appropriates \$10 million from the state General Fund (GF) in FY 2006-2007 to the Department of Emergency and Military Affairs (DEMA) for National Guard mobilization expenses if the Governor reports the plan for stabilization.

Appropriates \$25 million from the GF in each of FYs 2006-2007 and 2007-2008 to the Border Radar Fund for DEMA to lease or purchase a border radar system and establishes reporting requirements regarding the implementation of the border radar project.

## **COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE (Cont'd.)**

Establishes the Arizona Border Security Enforcement Team to administer the Border Security Fund (Fund). The following amounts are appropriated from the GF to the Fund in FY 2006-2007: \$27 million for grants to counties for incarceration operating expenses; \$27 million for grants to city, town and county law enforcement agencies, city and town prosecutors and county attorneys for immigration enforcement purposes; \$850,000 for grants to the Arizona Department of Corrections and county sheriffs for border clean-up restoration costs; and \$1 million for grants to the Arizona Department of Transportation to construct a southern Arizona border road.

Additionally, the measure appropriates from the GF in FY 2006-2007: \$28,952,900 and 161.8 FTE positions to the Department of Public Safety (DPS) for GITEM and immigration enforcement purposes; \$14.3 million to DPS for the establishment of a southern Arizona crime laboratory; \$200,000 to the State Land Department for an environmental impact study; \$2 million to the Attorney General for enforcement of the employer sanction requirements; \$150,000 to the Auditor General for the purpose of contracting with a third party to conduct any fiscal audits that are federally required; \$100,000 and one FTE position for the creation of the Immigration Ombudsman Citizens Aide.

The measure states if federal monies are granted for the purpose specified for any state appropriations, then the federal dollars will be used to offset the state appropriation and the offset amount reverts back to the GF.

In her veto message, the Governor states H.B. 2577 is weak and ineffective, violates the Constitution and is overwhelmingly opposed by law enforcement and top border elected officials in the state. The Governor indicates the bill offers no constructive new ideas, has provisions she has previously objected to or vetoed and does not have strong employer sanctions provisions.